

Former Safety Manager Faces Criminal Charges in Workplace Fatality in LA



Prosecutions against safety professionals are rare but safety managers, directors, coordinators and the like *can* be held personally liable under the OHS laws.

For example, in May 2007, Bernard Dearing, a safety manager, pleaded guilty to developing a site safety plan unilaterally without consulting the JHSC as required by the *OHS Act*. The case was the result of a fatality that occurred during the dismantling of an old steel mill. And in 2011, safety coordinator James Della Valle was convicted of an OHS violation for failing to protect workers and tenants at an asbestos-contaminated public housing complex.

Safety professionals could also face possible liability for criminal negligence under the C-45 amendments to the *Criminal Code* but such charges are even rarer.

However, a safety professional was just indicted in Los Angeles for similar charges.

On April 27, 2015, the Los Angeles County District Attorney announced indictments in the wake of a gruesome fatality at a Bumble Bee tuna processing plant.

Prosecutors allege that Jose Melena, 62, entered a 35-foot-long cylindrical oven as part of his duties. Co-workers, who were unaware that Melena was inside the oven, loaded multiple carts containing about 12,000 pounds of tuna into the oven and started it. The victim got trapped in the back of the super-heated, pressurized steam cooker.

During the two-hour heat sterilization process, the oven's internal temperature rose to about 270°. Melena's severely burned remains were discovered by a co-worker.

Bumble Bee's former Safety Manager Saul Florez, its Director of Plant Operations Angel Rodriguez and the company itself were each charged with the felony of an OSHA violation causing death. If convicted, Florez and Rodriguez face a maximum sentence of three years in jail and/or a \$250,000 fine, while the company faces

a maximum fine of \$1.5 million.

‘We take worker safety very seriously,’ District Attorney Lacey said. ‘For the past year, prosecutors and investigators from my office have begun rolling out to major industrial incidents involving serious worker injuries and death. Our goal is to enhance the criminal prosecution of workplace safety violations. Although the Bumble Bee investigation began in 2012, this case represents our commitment to protecting workers from illegal ‘ and, potentially, deadly ‘ on-the-job practices.’